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Honorable Ryan Zinke
Secretary of the U.S. Department of the Interior
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

SUBJECT: Secretarial Order 3350

The Honorable Secretary Ryan Zinke,

API is pleased to see the Administration and the Department of the Interior (DOI) continuing to take strides to put in place a lasting, domestically-focused energy policy that will help the U.S. “maintain the Nation’s position as a global energy leader.” For too long the U.S. has been hampered by the lack of a strong domestic oil and natural gas energy policy. The oil and natural gas industry is committed to developing and producing domestic energy resources for the benefit of all Americans and doing so in a safe and environmentally sound manner. API represents over 625 oil and natural gas companies that supply most of America’s energy, support more than 9.8 million jobs and 8 percent of the U.S. economy, and, since 2000, have invested nearly \$2 trillion in U.S. capital projects to advance all forms of energy, including alternatives.

Secretarial Order 3350, America-First Offshore Energy Strategy, which implements Executive Order 13795, is an important step forward that will help the offshore oil and natural gas industry regain the cost-effective regulatory framework that promotes the certainty and predictability necessary to make the massive capital investments required to bring offshore energy projects to the U.S. economy. This will serve to further the Department’s stated goal “to ensure that responsible OCS exploration and development is promoted and not unnecessarily delayed or inhibited.” This letter is intended to inform the regulatory and policy reviews directed by the order and to offer any needed assistance to you as DOI continues to implement Secretarial Order 3350. In this letter we will address broad themes associated with each subject area addressed in the Secretarial Order and provide specific industry concerns in each area.

API believes there are opportunities to improve many of the DOI rules and policy initiatives while still promoting safety and environmental performance in offshore oil and gas exploration and development. We look forward to further opportunities to work with the Interior Department leadership and staff on these and other rules.

The Secretarial Order highlights many of the rules and policies that API and our industry partners have addressed in extensive comments. Where appropriate we have attached the relevant comments that will help provide specific details of needed changes as DOI performs its reviews of the various regulations, proposed rules, and policy initiatives.

Specific regulatory effort identified in Secretarial Order 3350:

1. Development of a new Five-year OCS Leasing Program. For many years, API has advocated for opening additional OCS areas to oil and natural gas exploration. We believe that it is important that DOI's evaluation of OCS areas is all-inclusive (26 Planning Areas) and that this evaluation does not prematurely eliminate areas that have resource development potential. The multi-step program development process is designed to collect information from all stakeholders, to provide the opportunity for careful analysis and consideration of available information, and to allow the Secretary of the Interior to decide on what areas are best suited for future offshore exploration and development activities. Since the existing process does not allow an area that is removed from consideration at an early stage to be added back in at a later stage, it is important not to prematurely eliminate areas from consideration. One important consideration for DOI to keep in mind is that even though a lease sale is scheduled to be held as part of a Five-year Program, a decision on whether or not to have the sale is not made until the time the sale is scheduled. This allows DOI flexibility to include lease sales in areas that may be under a temporary moratorium (like the Eastern Gulf of Mexico) or where new data is being collected (like the Atlantic) and then make the ultimate decision to hold the sale or not at the time the sale is scheduled. The decisions made now will have long-lasting impacts on U.S. energy policy. API, our members and our industry partners will be involved at all stages of the Five-year Program development. As a trade association, we are not in a position to provide information on specific areas of interest to our members. Rather we can offer that the prospect of lease sales in any given area will spur industry exploration activity which will provide valuable information to the government on the oil and natural gas potential of an area.
2. Cooperate with National Marine Fisheries Service (NMFS) to expedite consideration of Incidental Take Authorization (ITA) requests, including Incidental Harassment Authorizations (IHA) and Letters of Authorization; and, develop and implement a streamlined permitting approach for seismic surveys. This action is long overdue. For over a decade, API and our industry partners have attempted to have DOI and NMFS work together to promulgate incidental take regulations for geological and geophysical (G&G) surveys in the Gulf of Mexico (GOM). Much to our frustration this process has been exceedingly slow in spite of countless industry efforts that have included staff-level and management-level engagements, letters, responses to comment requests, etc. With a looming September 25, 2017 deadline on the expiration of a stay in a lawsuit filed over industry G&G activities in the GOM, this has now reached a near-crisis level. In short, by September 25, 2017 DOI must finish the Programmatic Environmental Impact Statement (PEIS), NMFS must be compelled to propose and finalize incidental take regulations, and NMFS must complete the required consultation with DOI under the Endangered Species Act.

Completing the actions outlined above is complicated by previous agency work. In general, a fundamental flaw with the Draft PEIS was its establishment of an unrealistic scenario in which G&G activities are projected to result in supposed effects to marine mammals that DOI admits are unrealistic overestimates of impact. The supposed adverse effects of this worst case hypothetical scenario were then addressed in the Draft PEIS with burdensome and unsupported mitigation measures. This approach is contrary to both the best available scientific information and applicable law. For over 40 years, the federal government and academic scientists have studied the potential impacts of G&G activities on marine mammals, and have concluded that any such potential impacts are insignificant. The DPEIS's suggestion that such impacts are "moderate" (as opposed to insignificant) is not supported by the best available science and is made possible only by application of overly conservative estimates that DOI admits do not accurately reflect the actual anticipated impacts.

Many of the mitigation measures recommended in certain alternatives presented in the DPEIS are economically and operationally infeasible, will impose serious burdens on industry, and are highly unlikely to result in benefits to protected species. Industry can and will support mitigation measures that are grounded in the best available science and consistent with existing practices that are proven to be effective and operationally feasible. However, we cannot support mitigation measures with no basis in fact or science, which are intended to address presumed adverse effects that will not occur, and which will result in less offshore exploration. As to the alternatives presented in the DPEIS, API finds Alternative A to be the most reasonable because it presents the option that is most consistent with the best available science, operational feasibility, and applicable law.

Unless the faulty assumptions made in the Draft PEIS are corrected, NMFS will be forced to rely on that information to draft the proposed incidental take regulations, which in turn, will likely seek to impose unrealistic and unnecessary mitigation measures on industry. This is contrary to the stated goals of the EO and SO. Detailed industry comments on the DPEIS are attached for your reference.

3. Expedite consideration of Atlantic seismic survey permits. The decision to reverse the previous administration's unjust denial of these permits is welcome news. Subsequent action by the Interior Bureau of Land Appeals to remand the appeals of the denied permits back to the Bureau of Ocean Energy Management for further consideration paves the way for approval of those permits. However, NMFS must be compelled to complete its work on ITA permit applications for true progress to be made in this area.
4. Complete the review of Financial Assurance guidance found in NTL 2016-NO1. DOI has been working closely with the Offshore Operators Committee (OOC) and the OCS Advisory Board of the Petroleum Landman's Association to remedy the shortcomings of DOI's approach on the issues of risk management and financial assurance. API supports this approach and will be evaluating the suggested changes to the NTL that the industry work group is contemplating.
5. Cease activity to promulgate Offshore Air Quality Regulations. API and OOC have been actively engaged with DOI following the issuance of the proposed air quality rule. Based

on industry's extensive comments on the proposed rule (attached) and our engagement over the last year, we believe that DOI had begun to understand the importance of collaborating with industry to gather needed information on our operations in order to promulgate feasible and effective regulations. Industry remains concerned with DOI's ongoing GOM air quality study, particularly with the assumptions made in air quality modelling. Based on our current understanding, we believe the modelling should better reflect actual conditions rather than attempting to depict a worst case scenario. Our efforts to evaluate the work have been hampered by a lack of information. While some information has been made available, still more is required to make a full evaluation. Our recent comments on the Draft GOM Multi-sale Supplement Environmental Impact Statement (attached) detail our current concerns in this area.

Going forward, industry urges DOI to follow an approach similar to that employed in working through the issues associated with the financial assurance NTL (as detailed above). Specifically, we believe the following course of action could be appropriate:

- Create an industry workgroup to provide input on changes to the assumptions and inputs to the modeling study.
- DOI should discontinue the use of its preliminary air quality modeling study results, including their use in NEPA documents.
- DOI should finish its air quality study and use it as input to a revised rulemaking.
- If appropriate based on study results, DOI should restart the rulemaking process with an advance notice of proposed rulemaking (ANPR).

6. Review Offshore Well Control Regulations. The Final Well Control Rule is greatly improved from the proposed rule, but numerous concerns still remain. Seven industry trade associations have been working to outline our concerns with the regulation and its implementation and will be sending a separate letter to DOI that will provide specific details. As a preview, we wish to highlight four major concerns, in no particular order: Industry remains concerned with the drilling margin requirements in the final well control rule and suggest deleting the new regulatory text and reverting to the previous requirements. That risk-based approach to managing drilling margin in combination with existing regulatory oversight has been demonstrated to safely and economically drill wells; the requirements that exceed the provisions of API Standard 53 (API 53), Blowout Prevention Equipment Systems for Drilling Wells are unnecessary, will not improve safety and will increase risks to operations, which is why, we recommend using the requirements in API 53 as the primary best practice; rulemaking on Real-Time Monitoring is premature, we suggest deleting those requirements; and, we do not see the need for BSEE to require certification by BSEE-approved verification organizations (BAVOs). Certification can be done by third party organizations; they do not need to be approved by BSEE.
7. Review Arctic Drilling and Operations Regulations. API and our industry partners continue to believe that access to Alaska offshore oil and natural gas resources under balanced and science-based regulations is essential to the nation's long term economic and energy security. We encourage DOI to embrace the finding in the 2015 National Petroleum Council "Arctic Potential" report. Specifically, that nearly a century of oil and natural gas exploration and production activity in the region demonstrates that development of the Alaska OCS can take place in a safe and environmentally responsible

manner while protecting habitat, wildlife, communities, and subsistence lifestyles. The 2016 Arctic rules package imposes prescriptive requirements based on the premise that a catastrophic spill is inevitable and that one particular combination of technologies and methods should be applied to operations in all locations. Industry's specific concerns are detailed in comments submitted to the agencies during the rulemaking process (attached), and we are prepared to discuss these concerns with the DOI as part of the review directed under the SO.

We appreciate the actions of this Administration to eliminate unnecessary burden and to restore certainty and predictability into the offshore permitting and regulatory regimes. We look forward to continued engagement with the Department and you on these important issues to assure that the energy that is fundamental to our society can be developed and delivered safely.

Thank you again for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to be "S. J. [unclear]", written in a cursive style.

Group Director
Upstream and Industry Operations
American Petroleum Institute

CC:
Counselor to the Secretary for Energy Policy Vincent DiVito
Acting Assistant Secretary Katharine MacGregor
BSEE Director
BOEM Director